

REFERENCE TITLE: occupational licensing regulatory study commission

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1465

Introduced by
Senators Gorman: Harper

AN ACT

AMENDING TITLE 41, CHAPTER 7, ARTICLE 10.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1279.08; RELATING TO THE BUSINESS AND OCCUPATIONAL LICENSING REGULATORY STUDY COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 41, chapter 7, article 10.1, Arizona Revised
3 Statutes, is amended by adding section 41-1279.08, to read:

4 41-1279.08. Business and occupational licensing regulatory
5 study commission: membership: duties: report:
6 program termination

7 A. THE BUSINESS AND OCCUPATIONAL LICENSING REGULATORY STUDY COMMISSION
8 IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

- 9 1. FIVE PERSONS WHO ARE APPOINTED BY THE GOVERNOR.
10 2. THREE PERSONS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE.
11 3. THREE PERSONS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF
12 REPRESENTATIVES.

13 B. MEMBERS SHALL SERVE TERMS OF THREE YEARS AND SHALL ELECT A
14 CHAIRPERSON AT THE COMMISSION'S FIRST MEETING. THE APPOINTING AUTHORITY
15 SHALL SELECT MEMBERS WHO REPRESENT CONSUMERS, BUSINESSES AND TAXPAYERS AND
16 INCLUDE AT LEAST ONE BUT NOT MORE THAN THREE REPRESENTATIVES OF STATE
17 GOVERNMENT.

18 C. MEMBERS OF THE COMMISSION ARE NOT ELIGIBLE TO RECEIVE COMPENSATION
19 OR REIMBURSEMENT OF EXPENSES, EXCEPT THAT THOSE MEMBERS WHO ARE EMPLOYED BY
20 THIS STATE ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38,
21 CHAPTER 4, ARTICLE 2 BY THE DEPARTMENT OR AGENCY THAT EMPLOYS THEM.

22 D. A PRACTITIONER OF A PROFESSION LICENSED BY THIS STATE IS NOT
23 ELIGIBLE TO SERVE ON THE COMMISSION.

24 E. THE COMMISSION SHALL COORDINATE ITS ACTIVITIES WITH THE AUDITOR
25 GENERAL WHO SERVES AS THE LIAISON BETWEEN THE COMMISSION AND STATE
26 GOVERNMENT.

27 F. THE COMMISSION SHALL ADVISE THE LEGISLATURE ON METHODS TO REDUCE
28 THE BURDEN OF OCCUPATIONAL LICENSING REQUIREMENTS SPECIFICALLY AND REGULATORY
29 REQUIREMENTS AFFECTING BUSINESS ACTIVITY GENERALLY ON CONSUMERS, BUSINESSES,
30 TAXPAYERS AND THOSE SEEKING EMPLOYMENT IN REGULATED PROFESSIONS.

31 G. THE COMMISSION SHALL:

32 1. MEET OR CONDUCT A PUBLIC HEARING AT LEAST EVERY OTHER MONTH.
33 2. CONDUCT A SURVEY OF BUSINESS OWNERS IN THIS STATE IN ORDER TO
34 EXAMINE THE PERFORMANCE OF REGULATORY ENTITIES AND DETERMINE BUSINESSES'
35 VIEWS ON REGULATION.

36 3. HOLD PUBLIC HEARINGS IN ORDER TO SOLICIT THE INPUT OF BUSINESS
37 LEADERS, GOVERNMENT REPRESENTATIVES, COMMUNITY ORGANIZATION REPRESENTATIVES
38 AND ALL OTHER INTERESTED CITIZENS AND TAXPAYERS ON EXISTING OR ANTICIPATED
39 REGULATORY REQUIREMENTS CONCERNING OCCUPATIONAL LICENSING OR BUSINESS
40 ACTIVITY IN GENERAL.

41 4. ANALYZE CURRENT AND FUTURE REGULATORY REQUIREMENTS AFFECTING
42 OCCUPATIONAL LICENSING AND BUSINESS ACTIVITY TO DETERMINE IF THE REGULATORY
43 REQUIREMENTS ARE NECESSARY AND IF POLICY GOALS CAN BE ACHIEVED BY LESS
44 RESTRICTIVE REQUIREMENTS OR OTHER LESS BURDENOME MEANS.

1 5. EXAMINE DATA AND LOOK FOR EVIDENCE OF HARM TO CONSUMERS AND PERSONS
2 SEEKING EMPLOYMENT IN THE REGULATED PROFESSIONS CAUSED BY STATE LAWS AND
3 RULES CONCERNING OCCUPATIONAL LICENSING OR BUSINESS ACTIVITY IN GENERAL AND
4 WEIGH THIS AGAINST THE PERCEIVED BENEFITS OF THOSE LAWS AND RULES. THE
5 EVIDENCE SHALL INCLUDE INDUSTRY ASSOCIATION DATA, FEDERAL, STATE AND LOCAL
6 GOVERNMENT DATA, BUSINESS REPORTS, ECONOMIC ANALYSES, COMPLAINTS TO THE
7 RESPECTIVE STATE LAW ENFORCEMENT OR CONSUMER AFFAIRS DIVISIONS OR THE BETTER
8 BUSINESS BUREAU AND DATA FROM RECIPROCAL AGENCIES IN OTHER STATES WITH AND
9 WITHOUT SIMILAR LAWS AND RULES.

10 6. SUBMIT A REPORT REGARDING ITS ACTIVITIES AND RECOMMENDATIONS TO THE
11 GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
12 REPRESENTATIVES ON OR BEFORE DECEMBER 31 OF EACH YEAR. RECOMMENDATIONS MUST
13 BE APPROVED BY A MAJORITY VOTE OF THE COMMISSION. THE COMMISSION SHALL
14 PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF
15 THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

16 H. THE PROGRAM ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2019
17 PURSUANT TO SECTION 41-3102.

18 Sec. 2. Goals and guiding principles of the business and
19 occupational licensing regulatory study commission

20 A. The goals of the business and occupational licensing regulatory
21 study commission established by this act are to:

22 1. Eliminate regulatory barriers to jobs and economic growth and
23 lighten the regulatory burdens imposed on citizens and businesses.

24 2. Use the Arizona administrative code as a tool to encourage new
25 business opportunities.

26 3. Eliminate regulatory impediments to easier citizen access to state
27 government services.

28 B. The guiding principles of the business and occupational licensing
29 regulatory study commission established by this act are as follows:

30 1. Regulatory requirements should be a last resort. Their use
31 indicates a failure of all other means.

32 2. The cost of a regulatory requirement should be no greater than the
33 benefit to the community.

34 3. Regulatory requirements must be simple, fair and enforceable.

35 4. Regulatory requirements must be written to ensure the minimum
36 possible constraints on business activity and the minimum possible costs to
37 consumers.

38 5. Regulatory requirements must never exceed federal standards without
39 a compelling and uniquely local or regional reason for them to do so.

40 6. Regulatory requirements should be evaluated first and foremost from
41 the perspective of the consumer or citizen taxpayer.

42 7. The burden is on the government to justify the continued existence
43 of any regulatory requirement.

1 8. Occupational licensing laws should be subject to removal:

2 (a) In cases of political favoritism or if licensing has served mainly
3 to limit the competition of existing practitioners without providing an
4 offsetting benefit to consumers.

5 (b) If few other state governments have seen the need to implement
6 similar licensing laws for the occupation in question.

7 (c) If too few practitioners are licensed to financially justify the
8 existence of the licensing board.

9 (d) If there is a history of little or no enforcement activity,
10 suggesting that either the licensing board is not performing its job or there
11 is no cause for action, and therefore the licensing board is unnecessary.

12 (e) If a regulatory requirement has outlived its original purpose or
13 become obsolete due to changes in the licensed profession.

14 9. The legislature should consider less burdensome alternatives to
15 occupational licensing requirements including the following:

16 (a) Abolishing all state regulation of a profession or industry.

17 (b) Reducing or eliminating fees.

18 (c) Eliminating certain requirements such as testing, education or
19 residency requirements.

20 (d) Voluntary certification.

21 (e) A one-time no fee registration with this state.

22 C. In applying a cost benefit analysis to regulatory requirements, the
23 commission shall consider the following questions:

24 1. How does the requirement benefit the consumer or public?

25 2. How does the requirement benefit the regulated parties?

26 3. How does the requirement cost the consumer or public?

27 4. How does the requirement cost the regulated parties?

28 5. What administrative or enforcement costs are paid by taxpayers?

29 Sec. 3. Initial terms of members of the business and
30 occupational licensing regulatory study commission

31 The initial members of the business and occupational licensing
32 regulatory study commission shall assign themselves by lot to terms of one,
33 two and three years in office. The appointing authority shall make all
34 subsequent appointments as prescribed by statute.